



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

February 5, 2016

Via electronic mail
Mr. Brendan J. Healey
Mandell Menkes LLC
One North Franklin, Suite 3600
Chicago, Illinois 60606
bhealey@mandellmenkes.com

RE: FOIA Request for Review – 2016 PAC 39947

Dear Mr. Healey:

This determination is issued pursuant to section 9.5(c) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(c) (West 2014)). For the reasons that follow, we have determined that no further action is warranted as to this matter.

On December 2, 2015, Ms. Jenna Morton, on behalf of WQAD, submitted a FOIA request to the Monmouth-Roseville Community Unit School District #238 (District) seeking "surveillance video for bus #8 on August 21st 2015."¹ On December 4, 2015, the District responded that the video was a "student record" as defined under the Illinois School Student Records Act (ISSRA) (105 ILCS 10/1 *et seq.* (West 2014)) because it contained information from which numerous students could be individually identified. Therefore, the District denied the request under section 7.5(r) of FOIA (5 ILCS 140/7.5(r) (West 2014)), which exempts "[i]nformation prohibited from being disclosed by the [ISSRA]." In this Request for Review, you contend that the Illinois Administrative Code excludes school bus recordings from the definition of "School Student Record."²

Although the parties cite to the ISSRA, another provision of Illinois law specifically governs the making and disclosure of school bus recordings. Section 14-3(m) of the Criminal Code of 2012 (720 ILCS 5/14-3(m) (West 2014)), as one exemption from criminal

¹E-mail from Jenna Morton to Edward Fletcher (December 2, 2015).

²See 23 Ill. Adm. Code §375.10 (2016), last amended at 40 Ill. Reg. 2287, effective January 13, 2016.

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eavesdropping prohibitions, allows electronic videotape recording of the interior of a school bus while it is being used in the transportation of students to and from school and school sponsored activities; it further provides:

Recordings made pursuant to this subsection (m) *shall be confidential records* and may only be used by school officials (or their designees) and law enforcement personnel for investigations, school disciplinary actions and hearings, proceedings under the Juvenile Court Act of 1987, and criminal prosecutions, related to incidents occurring in and around the school bus[.] (Emphasis added.)

The Public Access Bureau has previously determined that because this provision bars disclosure of a video taken from the interior of a school bus transporting students for school-related activities, except for one of the specified official purposes, such a video is exempt from disclosure under section 7(1)(a) of FOIA (5 ILCS 140/7(1)(a) (West 2014), as amended by Public Act 99-298, effective August 6, 2015).³ See Ill. Att'y Gen. PAC Req. Rev. Ltr. 18521, issued June 14, 2012, at 4; Ill. Att'y Gen. PAC Req. Rev. Ltr. 10782, issued April 8, 2011, at 3. Ms. Morton is not one of the officials to whom disclosure is permitted for authorized purposes. Accordingly, we have determined that no further action is warranted as to this matter.

This letter will close this file. If you have any questions, please contact me at (217) 782-9078 or nolson@atg.state.il.us.

Very truly yours


NEIL P. OLSON
Assistant Attorney General
Public Access Bureau

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³Section 7(1)(a) of FOIA permits a public body to withhold "[i]nformation specifically prohibited from disclosure by federal or State law[.]"

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cc: *Via electronic mail*
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